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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,900	06/26/2001	Kenneth W. Rake	IFLOW.2CP2F3C1	2814

20995 7590 09/06/2005

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EXAMINER
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REICHL, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

<b>Office Action Summary</b>	<b>Application No.</b> 09/892,900	<b>Applicant(s)</b> RAKE ET AL.	
	<b>Examiner</b> Karin M. Reichle	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-17, 19, 23, 24, 30, 33 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-17, 19, 23, 24, 30, 33 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/19/05 has been entered.

### ***Specification***

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Language Interpretation***

3. It is noted that none of the claim language has been specifically defined. Therefore the terms of the claim will be given their common, i.e. dictionary, definition as is consistent with the specification. "Platen" as defined by the dictionary is "One of the two flat members of the printing press that serves to position the paper and hold it against the inked type". Since this is not consistent with the specification, "platen" will be interpreted as a member which is capable of exerting pressure. Figures 52-55 and page 49, lines 18-28 are deemed to provide support for the amendments to claims 14, 19, 23, 30, 33 and 36.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 14-17, 19, 23, 24, 30, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bau '852.

See, e.g., Figures 2 and 4 and col. 5, lines 29-38: 3 and 7 or 2 and 3 or 2, 3 and 7 are threadably engaged shells of generally circular outer shape, "platen", see Claim Interpretation section supra, is 31 with nonplanar surface, adjacent 32, which is "complementary", i.e. defined as "forming or serving as a complement, completing", to inner surface of shell 7, adjacent 8, or the inner surface of 8, which shell and platen surfaces have a substantially planar central portion, e.g. adjacent 9 and 79, respectively, and a nonplanar annular portion, e.g. adjacent 8 and 31, respectively, and 78 is a spring fastened to shell 3. Also see col. 3, lines 20-23 of Bau, i.e. the space defined between the platen and the shell holds a fluid bag 25 therein. Note claim 24 with regard to this teaching also. With regard to limitation of the distance of the movement of the platen in a first direction being less than about one-fourth of a minimum dimension in a direction perpendicular to that direction such that the working length of the spring is less than a free length of the spring, compare Figures 2 and 4 which show the distance of movement less than a perpendicular dimension of the space holding the bag 25. With regard to the working length of the spring being less than a free length of the spring, see, e.g. col. 3, lines 32-50, i.e. a spring which is pressing on or being held against the empty bag wall and interior surface of the first shell. It is also noted that while Applicant has disclosed the criticality of a certain specific

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working length versus a certain specific free length in specific configurations, see again page 49, lines 18-28, such specifics have not been claimed. Therefore, it is the Examiner's first position that 1) the Bau patent teaches all the claimed structure and function except for the limitation added to each of the independent claims, i.e. the underlined language. In any case, the Examiner's second position, 2) the Bau patent at least teaches all the claimed structure. With regard to the language of lines 1, and 7-8, i.e. "said space...therein", and the first three lines of the last section of claim 1, similar language in claims 19 and 23 and line 1 of claim 23, such language recites function, properties or capabilities of the structure recited in the claim. Again, the Bau patent includes such claimed structure including a bag 25. Therefore there is sufficient factual basis for one to conclude that the function, properties or capabilities of the claimed structure are also necessarily and inevitably present in the same structure of Bau. Regardless of whether the Bau reference teaches 1) or 2) supra, with respect to the limitation added to the independent claims, i.e. the range of movement of the platen being about a quarter of the minimum perpendicular dimension of the space. While Figures 52-55 of the instant specification show such relationship, no criticality of the specific range has been set forth. While Bau does not show such specific range of movement, see Figures 2 and 4 and col. 3, lines 32-50 and col. 5, lines 29-38 of Bau, i.e. the dimensions and distances shown by the Figures and the spring of Bau presses or exerts force throughout its range of motion, i.e. the working length of 78 is necessarily and inevitably less than free length of 78 because the spring 78 configured as taught by Bau would not press or exert force if it had reached its free length and it presses or exerts force throughout its total distance of movement. Note again col. 5, lines 34-35, i.e. Bau recognize the spring's strength would control the compression amount. Therefore, it would be obvious to one

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having ordinary skill in the art at the time the invention was made to employ such a range of movement since it has been held that where the general conditions of a claim are disclosed in the prior art, i.e. both the claims and Bau teach the spring exerting force or pressure through its range of movement, discovering the optimum or workable ranges involves only routine experimentation or skill in the art, see *In re Aller*, 105 USPQ 233.

### ***Response to Arguments***

6. Applicant's remarks have been noted with regard to the prior art but are deemed not persuasive. First, it is noted that the instant application has not explicitly described the invention of the scope claimed as achieving a recognized result. Second, Bau does recognize that the movement, i.e. working distance, of the platen is determined by the strength of the spring, e.g. working length range, to control or result or produce the pressure to expel fluid from the bag, see portions of Bau cited supra.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karin M. Reichle  
Primary Examiner  
Art Unit 3761

KMR  
August 27, 2005